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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,669	08/25/2006	Nigel Emlyn Williams	66347-143	4155

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EXAMINER

TON, TRI T

ART UNIT	PAPER NUMBER
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2877

MAIL DATE	DELIVERY MODE
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09/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,669	Applicant(s) WILLIAMS, NIGEL EMLYN	
	Examiner TRI T. TON	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 8 is/are rejected.
- 7) ☒ Claim(s) 5, 7 and 9-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/17/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant is reminded that in order for a patent issuing on the instant application to obtain the benefit of priority based on priority papers filed in parent Application under 35 U.S.C. 119(a)-(d) or (f), a claim for such foreign priority must be timely made in this application. To satisfy the requirement of 37 CFR 1.55(a)(2) for a certified copy of the foreign application, applicant may simply identify the application containing the certified copy.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 10/17/06 has been entered. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Oath/Declaration

3. The Oath and Declaration filed on 09/20/2006 is acceptable.

Drawings

4. The drawings filed on 08/25/2006. These drawings are acceptable.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 8 are rejected under 35 U.S.C. 102(b) as being taught by Narisawa Junichi (JP. Publication No. 2002-107143). Hereafter, "Narisawa".

Regarding Claims 1, 8, Narisawa teaches

gravity-responsive directional means for indicating a datum direction of alignment with gravity (drawing 1, elements 22, 24, attached translation [0038], lines 4-6);

frictional pivoting means for allowing the gravity-responsive means coarsely to align with gravity (drawing 1, element 23);

vibration means for vibrating one or more elements of the pivoting means (drawing 1, element 25, attached translation [0038], lines 6-8); and

portable power means powering the vibration means ([0049, 0051]), (it is inherent that the power supply 31 is arranged on the main part 1, so it is portable).

Regarding Claim 2, Narisawa teaches the length and frequency of occurrence of vibration produced by the vibrating means are controlled by manual switches or electronic timing circuitry ([0052]).

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Regarding Claim 3, Narisawa teaches the gravity responsive directional means is a weighted pendulous arm (drawing 1, element 24) orthogonally attached to a pivotable shaft (drawing 1, element 23).

Regarding Claim 4, Narisawa teaches the gravity responsive directional means is an eccentrically weighted element orthogonally attached to a pivotable shaft (drawing 1, elements 23, 24).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being taught by Narisawa Junichi (JP. Publication No. 2002-107143) in view of A.W. Wells (U.S. Patent 2,408,589). Hereafter, “Narisawa” and “Wells”.

Regarding Claim 6, Narisawa teaches all the limitations of claim 1 as stated above except for the vibration means being a low-voltage electric motor. Wells teaches the vibration means being a low-voltage electric motor, (column 6, lines 28-34), (depending on resistances 13 and 14, the applied voltage would be reduced significantly to the line 16). It would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Narisawa by

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having the vibration means being a low-voltage electric motor in order to produce expected frequency for the oscillators, (Wells, column 6, lines 32-34).

Allowable Subject Matter

9. Claims 5, 7, 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: there was no prior art found by the examiner that suggested modification or combination with the cited art so as to satisfy the combination of all the limitations in claims 5 and 10.

11. As claim 5, the prior art of record taken alone or in combination, fails to disclose or render obvious “the frictional pivoting means are two opposing plates of a flexible material which are held apart at a predetermined distance by being rigidly attached to a case, and conical ends of the shaft are located in conical depressions in the two opposing plates.” in combination with the rest of the limitations of claims 1 and 3.

12. As claim 10, the prior art of record taken alone or in combination, fails to disclose or render obvious “an eccentrically weighted cylindrical housing frictionally attached about a common axis to another cylindrical housing, the second housing containing laser projecting means” in combination with the rest of the limitations of claims 1 and 8.

Fax/Telephone Information

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri T. Ton whose telephone number is (571) 272-9064. The examiner can normally be reached on 10:30am - 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Gregory J. Toatley, Jr./
Supervisory Patent Examiner,
Art Unit 2877
18 September 2009

September 16, 2009

Examiner /TTT/